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Of Attorneys for Plaintiff

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

**MEGAN DOMINGUEZ**

Case No. 3:23-cv-00559

Plaintiff

**NEGLIGENCE**

vs

28 U.S.C. § 1332

**STARBUCKS  
CORPORATION**

Demand for Jury Trial

Defendant

1.

### **JURISDICTION AND VENUE**

Jurisdiction is proper under 28 U.S.C. § 1332 because plaintiff is a citizen of Oregon and defendant is a citizen of Washington and the amount in controversy requirement is satisfied.

2.

Venue is proper under 28 U.S.C. § 1391 because a substantial part of the acts and omissions giving rise to plaintiff's claim occurred in Oregon.

3.

### **FACTUAL ALLEGATIONS**

On November 10, 2022 at its store in Beaverton, Oregon, defendant manufactured, advertised, and sold plaintiff a Frappuccino blended coffee beverage that contained metal shards.

4.

While drinking the beverage sold by defendant to plaintiff, plaintiff discovered metal shards in her mouth. Upon further inspection, plaintiff discovered that defendant's beverage container was contaminated with metal shards.

**5.**

None of defendant's advertisements or packaging associated with the beverage it sold to plaintiff warned plaintiff that its beverage may contain metal shards.

**6.**

Plaintiff provided defendant a written demand for the payment of this claim not less than 30 days before the commencement of this complaint and otherwise complied with ORS 20.080.

**7.**

## **CLAIM FOR NEGLIGENT PRODUCTS LIABILITY**

### **Count 1: Strict Liability**

As alleged in this complaint, defendant is in the business of manufacturing and selling blended coffee beverages, the blended coffee beverage it sold to plaintiff was in a defective condition that was unreasonably dangerous to plaintiff when it was delivered because it contained foreign objects believed to be shards of metal, which would not be contemplated by ordinary consumers like plaintiff who purchased one of defendant's blended coffee beverages, and plaintiff was physically injured while eating defendant's blended coffee beverage.

8.

**Count 2: Negligence**

As alleged in this complaint, defendant's failure to provide any warning to plaintiff that its blended coffee beverage may sometimes contain foreign objects including metal shards, when defendant knew or should have known of the unreasonable risk of physical injury when drinking one of its blended coffee beverages containing foreign objects including metal shards, caused plaintiff to suffer physical injury while consuming defendant's blended coffee beverage.

9.

**Count 3: Breach of Implied Warranty of Merchantability**

As alleged in this complaint, defendant is in the business of selling coffee beverages, and in selling its blended coffee beverage to plaintiff, defendant warranted that the blended coffee beverage was fit for consumption, but the blended coffee beverage was not fit for consumption because it contained foreign objects believed to be metal shards, and but for defendant selling plaintiff a blended coffee beverage not fit for human consumption, plaintiff would not have purchased defendant's blended coffee beverage and would not have suffered physical injury while drinking defendant's blended coffee beverage.

**10.**

Due to defendant's negligent products liability acts and omissions as alleged in this complaint, plaintiff experienced pain, discomfort, emotional distress, and interference with life activities, and loss of her purchase price. Accordingly, plaintiff respectfully requests judgment against defendant for economic and noneconomic damages in amounts determined by the jury to be fair and reasonable, not to exceed a total of \$10,000. Under ORS 20.080, plaintiff also requests judgment for reasonable attorney fees.

**11.**

Plaintiff respectfully requests a jury trial.

12.

**PRAYER FOR RELIEF**

Plaintiff seeks relief against defendant as requested above, and for post-judgment interest, and costs, any other relief this Court may determine is fair. Plaintiff reserves the right to amend this complaint to adjust the claims for compensation and damages and to add claims and additional defendants. Some of the complaint's allegations are based in part on the memory of witnesses, which may later prove to be inaccurate in parts, and so the complaint may later be amended before trial to conform the allegations to the evidence obtained throughout the case. This complaint is made on personal knowledge as to plaintiff's actions and based on information and belief as to the actions of others.

April 17, 2023

**RESPECTFULLY FILED,**

s/ Michael Fuller

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Of Attorneys for Plaintiff

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